IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4219 OF 2007

Smt.Sangeeta Kadam ...Petitioners
Versus
Tagore Nagar Shanti Sadan
Co-operative Housing Society
Ltd and Ors. ....Respondents

WRIT PETITION NO. 4220 OF 2007

Mr.Apoline Manual Sequeira ...Petitioners
Versus
Tagore Nagar Shanti Sadan
Co-operative Housing Society
Ltd and Ors. ....Respondents

WRIT PETITION NO. 4221 OF 2007

Smt.Karthiyani Narayanan ...Petitioners
Versus
Tagore Nagar Shanti Sadan
Co-operative Housing Society
Ltd and Ors. ....Respondents

WRIT PETITION NO. 4223 OF 2007

Mr.Rama Dhondi Rane ...Petitioners
Versus
Tagore Nagar Shanti Sadan
Co-operative Housing Society
Ltd and Ors. ....Respondents

WRIT PETITION NO. 4224 OF 2007

Mr.Manohar D.Hadkar
through his son, associate
member Mr.Devram, Manohar Hadkar ...Petitioners
as the petitioner has expired
Versus

Tagore Nagar Shanti Sadan
Co-operative Housing Society
Ltd and Ors. ....Respondents

Petitioner, Ms.Sangeeta Kadam in person.
Mr.Bhadrashete for respondent no.1.

CORAM: S.C.DHARMADHIKARI, J.

5th December, 2007.

P.C. :

1. These petitions are directed against the order of the Revisional Authority confirming that of the Deputy Registrar issuing the Recovery Certificate in favour of the first respondent/society against the present petitioners.

2. Since the petitioner is appearing in person, I called upon Mr.Bhadrashete appearing for the first respondent to take me through the petition and the Annexures thereto. Even the party appearing in person is conversant with the facts and canvassed her submissions very clearly and precisely. She understood the controversy.

3. The submission of the petitioner is that they are the members of the first respondent society and

occupying tenaments, some of them on the ground floor. However, the society has been demanding exorbitant sums towards repairs and maintenance and which sums were not payable. The society did not take them into confidence and carried out repairs contrary to law. The further grievance is that the details of the repairs are never disclosed and despite they attending the meetings, all particulars, including regarding the Repair Agency etc, have never been furnished.

4.Each of these grievances are factual. The Affdiavit-in-reply filed by the first respondent demonstrates that in proceedings after proceedings these issues have been gone into and decided. A reference is made to the proceedings in the City Civil Court, an Appeal from Order in this court, First Appeal in this court and earlier writ petitions all of which are on the same subject and issue. On each occasion the petitioenr’s grievance has been found to be without any substance. Even the report of the Architect on which heavy reliance is placed discloses that there are no alterations carried out to the structure but what is done is repairs and improvements. Considering the fact

that the issue is as old as of 1986 and thereafter repeatedly demands have been made but partial sums were paid in 2002 and the balance is still recoverable, this is not a fit case for interference under Article 227 of the Constitution of India.

5. The petitioners are parties to the Resolution regarding repairs and they were aware that the Resolutions have been approved by majority. In such circumstances, their refusal to pay the charges towards maintenance and repairs demonstrates their adamant and indifferent attitude. Repeatedly same contentions are raised. In such circumstances, even otherwise, this is not a fit case for exercising equitable and discretionary jurisdiction under Article 226 and 227 of the Constitution of India. Each of the petitions are therefore dismissed. Ad-interim orders to stand vacated.

6. At this stage, the petitioner in person requests for continuation of the ad-interim stay of the Recovery. In my view, considering the chequered history of the litigation and the fact that the

Recovery Certificate pertaining to the dues is issued in the 1990’s, this is not a fit case for continuing the ad-interim order. That apart, I enquired of the petitioners as to whether they would deposit further sums so as to enable me to consider this request. The petitioners refused to pay or deposit any further amount. The request in that behalf is rejected. However, there shall be no order as to costs.

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